

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

GEORGE STRICKLIN as Administrator of)	
the ESTATE OF HILDA STRICKLIN)	
)	
Plaintiff,)	CASE NO.: 3:20-cv-00115
)	
v.)	
)	
WALTER FETTERHOFF and MICHIGAN)	
PRODUCE HAULERS, INC.)	
)	
Defendants.)	

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES AND CLERK OF THE UNITED STATES
DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA.

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1332, 1441, and 1446,
Defendant, MICHIGAN PRODUCE HAULERS, INC., (“MPHI”), by counsel, hereby file this
Notice of Removal to remove the above-entitled action to this Court based upon the following
supporting grounds. Removing Party MPHI appearing solely for the purpose of this removal, and
for no other purpose, and preserving all other defenses available to them, state as follows:

VENUE

1. Removal to the Northern District of Indiana, South Bend Division, is appropriate
pursuant to 28 U.S.C. § 1441(a), because the Northern District of Indiana, South Bend Division,
embraces the County of Miami, where the action was pending prior to the filing of this Notice of
Removal.

REMOVAL IS TIMELY

2. On or about January 13, 2020, Defendant MICHIGAN PRODUCE HAULERS, INC.. was served by certified mail with a Summons and Complaint for Damages via their registered agent, Robert A. Gillian in Fremont Michigan. The above-entitled action was commenced against removing Party MPHI in the Miami County Circuit Court of the State of Indiana, Cause No: 52C01-2001-CT-000014. Therefore, removal is timely under 28 U.S.C. § 1446 (b)(1)

STATE COURT PROCEEDINGS

1. On January 7, 2020, Plaintiff George Stricklin as Administrator of the Estate of Hilda Stricklin (hereinafter “Plaintiff”) filed his Complaint, Appearance and Summons in the above-entitled action against Defendants in the Miami County Circuit Court in the State of Indiana, Cause No. 52C01-2001-CT-000014 and is now pending therein.

2. To date, based on information and belief, no service has been attained on Walter Fetterhoff.

3. Defendant MPHI asserts that there are no state court motions that remain pending at the time of this Notice of Removal.

DIVERSITY JURISDICTION EXISTS

4. This is a civil action that falls within the Court’s original jurisdiction under 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship under 28 U.S.C. §§ 1441 and 1446.

5. Plaintiff George Stricklin is a citizen of the Commonwealth of Kentucky.

6. Defendant Walter Fetterhoff is a citizen of the state of Michigan.

7. MICHIGAN PRODUCE HAULERS, INC is a Michigan corporation with its principal place of business in Fremont, Michigan.

8. Because MPHI is not incorporated in Indiana or have its principal place of business in Indiana, it is not a citizen of the State of Indiana for purposes of diversity jurisdiction.

9. There is complete diversity of citizenship between the parties named in this case.

10. Plaintiff's Complaint for Damages does not demand a specific sum of monetary damages. The State of Indiana does not permit a demand for a specific sum or permit recovery of damages in excess of the amount demanded. Therefore, this Notice of Removal states that the monetary value of the amount in controversy exceeds \$75,000, exclusive of interest and costs, based upon the following:

- a. On January 7, 2020, Plaintiff's counsel reported that Ms. Hilda Stricklin passed away as a result of the accident forming the basis of their Complaint.
- b. It is defense counsel's understanding that Mr. Stricklin is Hilda Stricklin's surviving husband and is making a claim for damages under Indiana's Wrongful Death Statute.

11. Based upon the death claimed by Plaintiff, he seeks recovery in excess of \$75,000 exclusive of interest and costs, the value to Plaintiff of the relief sought in the Complaint exceeds \$75,000 exclusive of interest and costs, and/or the amount in controversy exceeds \$75,000 exclusive of interest and costs.

12. Therefore, this state court action is properly removed to this Court in accordance with 28 U.S.C. §§ 1441 and 1446 because: (1) this action is a civil action pending within the jurisdiction of the United States District Court for the Northern District of Indiana, South Bend

Division; (2) this action is between citizens of different States; (3) the amount in controversy exceeds \$75,000, exclusive of interest and costs.

STATUTORY REQUIREMENTS

13. Pursuant to 28 U.S.C. § 1446(a), a copy of the entire state court file is attached as an Exhibit and includes the State Court Record as of the date of this Notice of Removal, including the following: Plaintiff's Complaint, Appearance and Summons to Defendants.

14. A copy of this Notice of Removal has been filed in the Lake County Superior Court and all parties have been served with both this Notice of Removal and the Notice of Filing Notice of Removal.

WHEREFORE, Defendant, MICHIGAN PRODUCE HAULERS, INC. by counsel, respectfully requests that the above-entitled action be removed from the Miami County Circuit Court to the United States District Court for the Northern District of Indiana, South Bend Division.

LEWIS WAGNER, LLP

By: /s/Robert R. Foos, Jr.
ROBERT R. FOOS, JR., #20885-45
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2020, a copy of the foregoing Notice of Removal was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the court's electronic filing system. Parties may access this filing through the court's system.

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